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SMALL BUSINESS COMPLIANCE GUIDE
Amendment to Subtitle 02 Fisheries Service
Regarding the Department's Regulations for Striped Bass
COMAR 08.02.15.09, .10, and .12
Released March 3, 2020

This Guide is prepared in accordance with the requirements of State Government Article, §10-110, Annotated Code of Maryland. It is intended to help small businesses comply with the revised rules adopted in the above-referenced sections of the Code of Maryland Regulations. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small businesses, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply.

The Department will clarify or update the text of the Guide as an idea moves through the regulatory process. Direct your comments and recommendations, or calls for further assistance, to Fishing and Boating Services Regulatory Division:

410-260-8300
410-260-8DNR; toll free in Maryland 877-620-8DNR; TTY Users Call via the Maryland Relay
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I. SUMMARY & FAQs

What is being considered?

The department is considering three different management options to reduce total removals of striped bass during the recreational summer and fall fishery. The options are presented in the table on page 4.

Option #1 is described in the Atlantic States Marine Fisheries Commission (ASMFC) Addendum VI to the Interstate Fishery Management Plan for Striped Bass.

- Catch/possession limit would be one fish per person per day.
- 18 inch minimum size.
- Eliminate the “boat fish” for charters. The captain and mate may not keep a striped bass during a charter trip.
- End the season on December 15.

Option #2 is the conservation equivalency proposal approved by ASMFC.

- Catch/possession limit would be one fish per person per day.
- 19 inch minimum size.
- Have an in-season closure period from August 16 through August 31.
- Eliminate the “boat fish” for charters. The captain and mate may not keep a striped bass during a charter trip.
- Optional pilot program for charter captains.
- End the season on December 10.

Option #3 has been added based on public comment so that you may identify an alternative to the closure period considered in Option #2.

- Catch/possession limit would be one fish per person per day.
- 19 inch minimum size.
- Have an in-season closure period. Several options for a closure are presented or you may specify an alternative closure period. The alternative closure period must be at least 16 consecutive days and may not begin before July 16th or end after August 31st.
- Eliminate the “boat fish” for charters. The captain and mate may not keep a striped bass during a charter trip.
- Optional pilot program for charter captains.
- End the season on December 10.

Closure Period

A closure period is being considered in an effort to reduce dead discards during the summer when water quality conditions in the Bay increase this mortality. Striped bass require cool, well oxygenated water to thrive. During the summer months, as water temperatures increase and oxygen conditions worsen, striped bass become more stressed. With peak Bay water temperatures occurring in mid to late July, the amount of cool, oxygenated striped bass habitat is at its lowest point. Over the last ten years (2010-2019), Bay water conditions in Maryland have been especially poor during the months of July and August. Stressful conditions have worsened

in recent years with both hotter than average water temperatures and worse than average oxygen conditions occurring over 55% of the time in July and 45% of the time in August.

During a closure period, anglers would not be allowed to target striped bass. "Target" means that a person may not catch, harass, harm, pursue, hunt, shoot, wound, or attempt to catch striped bass or striped bass hybrids. Anglers would still be allowed to fish for other species, but all efforts must be made to avoid interacting with striped bass during the closure period.

If the season is closed, you may not land striped bass in Maryland, regardless of where they were caught.

For the time periods considered, all dates are inclusive. This means in the case of a closure from August 16 through August 31, both August 16 and August 31 would be closed.

Size Limits

The options being considered have either an 18-inch (option 1) or 19-inch minimum size (options 2 and 3). Except for the Susquehanna Flats and Northeast River (described below), there is no maximum size. For charter boats participating in the pilot program that have a 2 fish per person possession limit (options 2 and 3), only 1 of those 2 fish may be greater than 28 inches.

Potomac River Tributaries

Anglers that fish the mainstem and tributaries of the Potomac River need to be aware of the rules for where they are fishing. Season and limits can be, and sometimes are, quite different in the mainstem and tributaries.

Susquehanna Flats and Northeast River

From May 16 - May 31 these areas have had more conservative rules to protect any lingering breeding striped bass in these areas. In this area, the possession limit has been maintained at 1 fish per person per day and there has been a maximum size of 26 inches. The maximum size for the fishery in these areas would remain unchanged. The minimum size will change based on the management option chosen. These areas would be excluded from the pilot program where charter boats could have 2 fish per person.

Pilot Program

The department is considering allowing charter captains to participate in a pilot program. A pilot program is a way for the department to try new methods for managing a fishery. The program is voluntary. The program is not available for the Susquehanna Flats & Northeast River from May 16-31. Participating captains will be required to use FACTS and will be allowed to keep 2 fish per person per day. Anglers on board charter boats whose charter captains who do not participate in the electronic reporting pilot program would still be held to the one fish per person limit.

FACTS is an e-Reporting system that will provide real-time data on harvest, discards, and fishing activity. Electronic reporting in Maryland requires that participants send a Trip Start Hail before they leave and a Trip End Hail before they return to the dock.

MARYLAND OPTIONS FOR THE SUMMER/FALL FISHERY			
	OPTION #1 ASMFC Addendum VI	OPTION #2 Conservation Equivalency 16 Day Closure in August	OPTION #3 Conservation Equivalency 16 Day Closure - Variable (choose below)
Season	OPEN May 16 through December 15	OPEN May 16 through August 15; CLOSED August 16 through August 31 No targeting during closure; OPEN September 1 through December 10	OPEN May 16 through the first day of the 16 day closure period; CLOSED for 16 consecutive days between July 16 and August 31 (select dates below) No targeting during closure; OPEN remaining dates through December 10
Size	18" minimum No maximum size	19" minimum No maximum size	19" minimum No maximum size
Size for Susquehanna Flats & Northeast River May 16-31	18" minimum 26" maximum	19" minimum 26" maximum	19" minimum 26" maximum
Possession Limit	1 fish/person/day	1 fish/person/day	1 fish/person/day
Captain or Mate (boat fish)	May not keep a striped bass during a charter trip	May not keep a striped bass during a charter trip	May not keep a striped bass during a charter trip
Voluntary Pilot Program for Charter Boats	not available	Requires charter captains to use FACTS reporting system; Hail in/out; Allows 2 fish/person/day for clients; Both fish must be at least 19" and only 1 may be greater than 28"; Program not available for the Susquehanna Flats & Northeast River May 16-31	Requires charter captains to use FACTS reporting system; Hail in/out; Allows 2 fish/person/day for clients; Both fish must be at least 19" and only 1 may be greater than 28"; Program not available for the Susquehanna Flats & Northeast River May 16-31
Fishing Area	Fishing areas described in regulation are not changing.		

If you choose Option #3, please specify the closure period. If you choose to write in an alternative closure period, the closure period must be at least 16 consecutive days and may not begin before July 16th or end after August 31st. Options for closure:

- July 16 through July 31
- July 23 through August 7
- August 1 through August 16
- Other — Specify a 16 consecutive day closure. The closure may not begin prior to July 16 or end after August 31.

Why is this change necessary?

The 2018 benchmark stock assessment for striped bass indicated declines, so the Atlantic States Marine Fisheries Commission (ASMFC) has determined that conservation measures are needed for the 2020 fishing season. ASMFC is a management entity comprising 15 member states on the East Coast, including Maryland.

The conservation goal set by ASMFC is to reduce the total number of striped bass that are killed by fishing activities. This means reducing the number of fish that are harvested and the number

of fish that die after being caught and returned to the water, known as dead discards. Maryland sees the required management change as an opportunity to reduce discard mortality and to expand protection for large migratory fish as they pass through the Maryland portion of the Bay to the spawning grounds. For more details regarding the actions required by ASMFC, see Addendum VI to the Interstate Fishery Management Plan for Striped Bass.

The department has implemented reductions in the commercial fishery and changes for the spring season. We are now seeking public comment regarding possible options for the summer and fall striped bass season.

Who will this affect?

The changes apply to recreational anglers, charter boats, and tackle shops.

Where do the rules apply?

The rules would apply to the Chesapeake Bay and its tidal tributaries, including the tributaries of the Potomac River.

Has this change been discussed with advisory commissions?

The idea was discussed with the Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission at their January 2020 meetings.

What is the specific regulatory action?

Amend Regulations .09, .10, and .12 under COMAR 08.02.15 Striped Bass.

II. DEFINITIONS

“Chumming” is defined in regulation (COMAR 08.02.25.01) as placing fish, parts of fish, or other natural or manmade attractants upon which fish might feed, in the water, not attached to a hook, for the purpose of attracting fish to a particular area so that they might be caught. Chumming includes all fish and other attractants upon which fish might feed. Chumming is specific to putting those items into the water without a hook for the purpose of attracting finfish. Chumming includes chunking.

“Circle hook” is defined in regulation (COMAR 08.02.25.01) as a non-offset hook with the point turned perpendicularly back to the shank.

“Fish” is defined in Natural Resources Article, §4-101, Annotated Code of Maryland and means finfish, crustaceans, mollusks, and amphibians and reptiles which spend the majority of their life cycle in water and any part, egg, offspring, or dead body of any of these species.

“Live-lining” is defined in regulation (COMAR 08.02.25.01) as using a live finfish on a hook for the purpose of catching other fish with (a) hook and line; (b) rod and reel; or (c) handlines. Live-lining is specific to using live finfish with active line fishing gear (hook and line, rod and reel, or handlines). Finfish include species like minnows, spot, eels, perch, menhaden, fallfish, and chubs. It does not include species like crabs, shrimp, worms, or processed bait.

"Target" means that a person may not catch, harass, harm, pursue, hunt, shoot, wound, or attempt to catch striped bass or striped bass hybrids.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

Except for charter captains participating in a voluntary program, this action does not create new permit, recordkeeping, or reporting requirements.

The pilot program will require the use of FACTS and captains will have to report real-time data on harvest, discards, and fishing activity. Participants will also be required to send a Trip Start Hail before they leave and a Trip End Hail before they return to the dock.

IV. IMPLEMENTATION DATE

The department expects this change to be effective by July 16, 2020, however the exact date cannot be determined. The department will follow our normal scoping and proposal procedures.

This idea is in the scoping process (March 3—March 18). The goal of scoping is to identify issues, potential impacts, and reasonable alternatives associated with the issues so that management actions can be developed. After the public has had an opportunity to comment on possible management actions during the scoping process, the department considers these comments and develops an appropriate management strategy.

If the action is necessary and appropriate, the rules will be promulgated following the Administrative Procedures Act described in Title 10, Subtitle 1 of the State Government Article Annotated Code of Maryland.

- The General Assembly's Administrative, Executive, and Legislative Review Committee reviews the regulatory proposal for fiscal and legal analysis.
- The proposal is printed by the Division of State Documents in the Maryland Register.
- A 30 day public comment period begins on the day of publication.
- After review of the comments, the department may adopt the changes.
- If the department adopts the changes, they become effective after a notice is published in the Maryland Register that announces approval and the effective date.

IV. ADDITIONAL INFORMATION AND LINKS

ASMFC [Addendum VI to the Interstate Fishery Management Plan for Striped Bass](http://www.asmfc.org/uploads/file/5dd447baStripedBassAddendumVI_Amend6_Oct2019.pdf)
(http://www.asmfc.org/uploads/file/5dd447baStripedBassAddendumVI_Amend6_Oct2019.pdf)

More information about charters using [FACTS](#) can be found on the department's website
<https://dnr.maryland.gov/fisheries/Pages/e-reporting/charter.aspx>

Regulations for pilot programs can be found in the [Code of Maryland Regulations 08.02.01.10](http://www.dsd.state.md.us/comar/comarhtml/08/08.02.01.10.htm)
<http://www.dsd.state.md.us/comar/comarhtml/08/08.02.01.10.htm>

Regulations for striped bass can be found in the Code of Maryland Regulations [Chapter 15](http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=08.02.15.*)
http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=08.02.15.*